

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

COBY COLE DITTO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Civil Action No. **3:19-CV-61-L-BK**
Criminal No. 3:16-CR-116-L-3

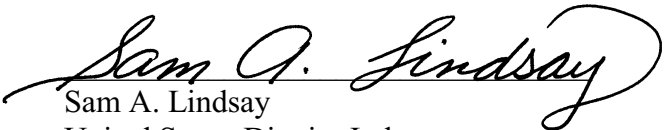
ORDER

The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 26) was entered on March 2, 2020, recommending, in light of the Supreme Court’s opinion in *United States v. Davis*, 139 S. Ct. 2319 (2019), that the court grant Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255, vacate his conviction under 18 U.S.C. § 924(c) (Count 2), and resentence him on the remaining count of conviction (Count 1: Conspiracy to Interfere with Commerce by Robbery in violation of 18 U.S.C. § 1951(a)). No objections to the Report were filed by either party.

Having considered Petitioner’s motion, the file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants** Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255; and **vacates** his sentence with respect to Count Two of the Indictment, charging him with Using, Carrying, and Brandishing a Firearm During and In Relation To a Crime of Violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). By separate order, the court will schedule a sentencing hearing to resentence Petitioner on the remaining count of

conviction (Count 1: Conspiracy to Interfere with Commerce by Robbery in violation of 18 U.S.C. § 1951(a)).

It is so ordered this 16th day of June, 2020.


Sam A. Lindsay
United States District Judge